

# Notice of Allowability

Application No.

09/745,226

Examiner

Traviss C McIntosh

Applicant(s)

HERRMANN ET AL.

Art Unit

1623

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 4/1/04.
2. ☒ The allowed claim(s) is/are 33-48, 50-56, 58-63 and 66-70.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

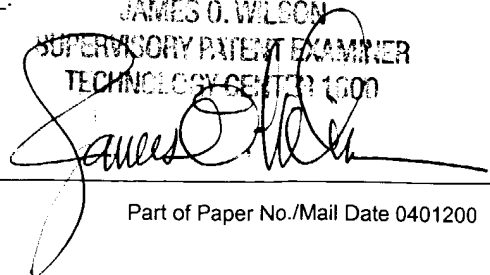
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 3/14/01
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

JAMES O. WILSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1500



### **DETAILED ACTION**

The Amendment filed April 1, 2004 has been received, entered into the record, and carefully considered. The following information provided in the amendment affects the instant application by:

Claims 33, 50, and 52-54 have been amended.

Claims 64-65 have been cancelled.

### ***Allowable Subject Matter***

Claims 33-48, 50-56, 58-63, and 66-70 are allowed.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Bonham on 3/31/2004.

The application has been amended as follows:

The abstract has been replaced by the following abstract:

## ABSTRACT

Novel nitric-oxide releasing lipid molecules are provided which comprise a lipid molecule selected from (a) phosphoglycerides, (b) lipids having a sphingosine base as a backbone, (c) monoacylglycerols, (d) diacylglycerols, and (e) glycosylacylglycerols, wherein the lipid molecule is provided with a nitric-oxide containing group which comprises (a) a  $\text{—S—N=O}$  moiety, (b) a  $\text{—O—N=O}$  moiety, or (c) a  $\text{>N—N=O}$  moiety. Also provided are methods of forming such nitric oxide releasing lipid molecules. Various pharmaceutical compositions, topical liquids and drug delivery systems comprising the nitric-oxide releasing lipid molecules are also described. Further provided are methods for therapeutically administering nitric oxide to patients, methods of treating or preventing various conditions, methods for promoting wound healing and methods of reducing the cells present in an atherosclerotic lesion, which methods utilize the nitric-oxide releasing lipid molecules.

The following is an examiner's statement of reasons for allowance: the prior art of record does not teach or fairly suggest the drug delivery system as claimed wherein applicants use of a medical article comprising the specific lipid molecules (sphingosine base, phosphoglycerides, mono-, di-, or glycosly-acylglycerols) as nitric oxide releasing compounds is not taught or seen to be obvious in light of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

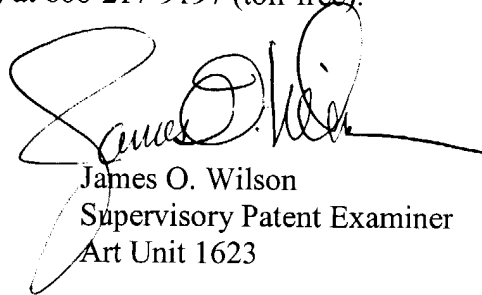
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C McIntosh whose telephone number is 571-272-0657. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Traviss C. McIntosh III  
April 1, 2004



James O. Wilson  
Supervisory Patent Examiner  
Art Unit 1623